

AN ACT

relating to the prosecution and punishment of certain outdoor burning violations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.018, Health and Safety Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) If conduct that violates a rule adopted under this section also violates a municipal ordinance, that conduct may be prosecuted only under the municipal ordinance, provided that:

(1) the violation is not a second or subsequent violation of a rule adopted under this section or a municipal ordinance; and

(2) the violation does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes.

(g) Notwithstanding Section 7.002, Water Code, the provisions of this section and rules adopted under this section may be enforced by a peace officer as described by Article 2.12, Code of Criminal Procedure.

SECTION 2. Section 7.187(b), Water Code, is amended to read as follows:

(b) Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:

1 (1) a Class C misdemeanor if the violation is a first
2 violation and does not involve the burning of heavy oils, asphaltic
3 materials, potentially explosive materials, or chemical wastes
4 [waste is not a substance described by Subdivision (3)];

5 (2) a Class B misdemeanor if the violation is a second
6 or subsequent violation and:

7 (A) the violation does not involve the burning
8 of:

9 (i) substances described by Subdivision
10 (1); or

11 (ii) insulation on electrical wire or
12 cable, treated lumber, plastics, non-wood construction or
13 demolition materials, furniture, carpet, or items containing
14 natural or synthetic rubber; or

15 (B) the violation involves the burning of
16 substances described by Paragraph (A)(ii) and none of the prior
17 violations involved the burning of substances described by
18 Subdivision (1) or Paragraph (A)(ii) [~~under Subdivision (1)~~]; or

19 (3) a Class A misdemeanor if the violation:

20 (A) involves the burning of substances described
21 by Subdivision (1); or

22 (B) is a second or subsequent violation and
23 involves the burning of substances described by Subdivision
24 (2)(A)(ii) and one or more of the prior violations involved the
25 burning of substances described by Subdivision (1) or (2)(A)(ii)
26 [~~tires, insulation on electrical wire or cable, treated lumber,~~
27 ~~plastics, non-wood construction or demolition materials, heavy~~

1 ~~oils, asphaltic materials, potentially explosive materials,~~
2 ~~furniture, carpet, chemical wastes, or items containing natural or~~
3 ~~synthetic rubber].~~

4 SECTION 3. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect on the date the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 4. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 1619 was passed by the House on April 5, 2017, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1619 was passed by the Senate on May 17, 2017, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor